

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



**BZA Application No. 20507-A
Solid Brick Ventures, LLC and 93 Hawaii Ventures, LLC
89 and 93 Hawaii Avenue, N.E. (Square 3674, Lots 8 and 9)**

HEARING DATES (20507): October 6 and November 17, 2021
DECISION DATE (20507): November 17, 2021
ORDER ISSUANCE DATE (20507): May 24, 2023
DECISION DATE (20507-A): December 13, 2023

**SUMMARY ORDER ON REQUEST FOR
MODIFICATION OF CONSEQUENCE**

Pursuant to notice, at its December 13, 2023 public meeting, the Board of Zoning Adjustment (“**Board**” or “**BZA**”) deliberated on a request for modification of consequence to BZA Order No. 20507 to reduce the number of approved dwelling units from 16 to 11 and remove a third story addition on two of the eleven lots. The Board considered the request for modification of consequence under Subtitle Y § 703 of Title 11 of the DCMR (Zoning Regulations of 2016, the “**Zoning Regulations**” to which all references are made unless otherwise specified). For the reasons stated below, the Board **APPROVES** the request for modification.

ORIGINAL APPLICATION. In Application No. 20507, the Board approved the request by 93 Hawaii Ventures, LLC, 98 Webster Ventures, LLC, and Solid Brick Ventures, LLC (the “**Applicant**”) for special exceptions under Subtitle U § 421 to allow a new residential development, and under Subtitle F § 5201 from the side yard requirements of Subtitle F § 306.2 and the open court width requirements of Subtitle F § 202.1 to allow additions to, and increases in, the number of residential units in 11 existing detached apartment houses in the RA-1 zone. The Board issued Order No. 20507 on May 24, 2023. (Exhibit 85 of the record for Case No. 20507.) The approval was subject to six conditions:

1. The Applicant shall unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit and charge a minimum rate based on the average market rate within a quarter mile.

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2. The Applicant shall identify transportation coordinators for the planning, construction, and operations phases of development, who will act as points of contact with DDOT, goDCgo, and Zoning Enforcement.
3. The Applicant shall provide the transportation coordinators' contact information to goDCgo, conduct an annual commuter survey of employees on-site, and report TDM activities and data collection efforts to goDCgo once per year.
4. The Applicant shall direct the transportation coordinators to develop, distribute, and market various transportation alternatives and options to the project's residents, including promoting transportation events (e.g., Bike to Work Day, National Walking Day, Car Free Day) on property website and in any internal building newsletters or communications.
5. The Applicant shall direct the transportation coordinators to subscribe to goDCgo's residential newsletter and to receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM plan.
6. The Applicant shall provide welcome packets to all new residents that should, at a minimum, include the Metrorail pocket guide, brochures of local transit lines (Streetcar, Circulator, and Metrobus), carpool and vanpool information, a Capital Bikeshare ("CaBi") coupon or rack card, a Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map.

PROPOSED MODIFICATION. On September 14, 2023, the Applicant submitted a request for modification of consequence to Order No. 20507. (Exhibit 1.) The Applicant proposes to modify the original approval for two of the lots by not constructing the proposed additions, but instead adding three new residential units to the cellar level of each building for a total of 11 units. The modification would reduce each proposal from 16 to 11 units, without the additions. The Applicant submitted revised plans reflecting these modifications. (Exhibit 18A.)

NOTICE OF THE REQUEST FOR MODIFICATION. Pursuant to Subtitle Y §§ 703.8-703.9, the Applicant provided proper and timely notice of the request for modification of consequence. (Exhibit 8.)

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 5A.

ANC REPORT. The ANC did not submit a report to the record regarding the request for modification.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the modification. (Exhibit 16).

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DISTRICT DEPARTMENT OF TRANSPORTATION (“DDOT”) REPORT. DDOT did not submit a report to the record related to the modification.

CONCLUSIONS

The Board determines that the Applicant’s request complies with Subtitle Y § 703.4, which defines a modification of consequence as a “proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board.” Based upon the record, the Board concludes that in seeking a modification of consequence, the Applicant has met its burden of proof under Subtitle Y § 703.4.

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

DECISION

It is therefore **ORDERED** that this application for a modification of consequence of BZA Order No. 20507 is hereby **APPROVED** consistent with the plans shown in Exhibit **18A** of the record, as required under Subtitle Y §§ 604.9 and 604.10.

In all other respects, Order No. 20507 remains unchanged.

VOTE: **3-0-2** (Frederick L. Hill, Lorna L. John, and Robert E. Miller to APPROVE; Chrishaun S. Smith not present, not voting; Carl H. Blake recused)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

ATTESTED BY:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: December 26, 2023

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.